



#4

IN THE UNITED STATES PATENT OFFICE

PATENT APPLICATION

Applicant(s): Jeremy S. Edmonds et al.
Title of application: METHOD AND APPARATUS FOR PERFORMING SUB-PICTURE LEVEL SPLICING BASED ON INTERRUPTS
Serial No.: 09/805,492
Filed: March 13, 2001
Group Art Unit: 2173 Examiner: not assigned
Attorney Docket No.: DIVA/246DIV3

CERTIFICATE OF MAILING under 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being deposited on 10/22/01 with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to the Assistant Commissioner of Patents, Washington, D.C. 20231.

Signature

Heena P. Crater

10/22/01
Date of signature

PETITION FOR FILING OF PATENT APPLICATION
WHEN ALL INVENTORS REFUSE TO EXECUTE
PAPERS OR CANNOT BE REACHED UNDER 37 C.F.R. §1.47(b)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

This Petition is submitted pursuant to 37 CFR 1.47(b) for the refusal inventors Jeremy S. Edmonds and John P. Comito to execute the above-identified application.

Declarations of Eamon J. Wall, attorney, Stephanie A. Storms, Esq., Senior Vice President/General Counsel of DIVA Systems Corp. ("the Company"), and Evadne Pickett-Walker, Legal Administrative Assistant of the Company, are submitted in support of this Petition. In Agreements with the Company, Applicants have agreed that inventions that (i) are developed using equipment, supplies, facilities or trade secrets of the Company, (ii) result from work performed by [inventor-applicant] for the Company, or (iii) relate to the Company's business or current or anticipated research and

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06 FC:122

development ..., will be the sole and exclusive property of the Company and are ... irrevocably assigned by [inventor-applicant] to the Company.

The last-known addresses of the non-signing inventors-applicants are:

Jeremy S. Edmonds
1025 Hudson Street
Redwood City, CA 94061

John P. Comito
907 Pleasant Hill Road
Redwood City, CA 94061

It is submitted that the Declarations of Eamon J. Wall, Stephanie A. Storms, and Evadne Pickett-Walker establish (1) that the non-signing inventors-applicants have refused to execute the application, (2) that Company has sufficient proprietary interest in the matter to justify the Company's filing of the application for patent on behalf of and as agent for all the inventors-applicants, (3) that filing by Company is necessary to preserve the rights of the parties and to prevent irreparable interest. Accordingly, Company respectfully requests that this Petition Under 37 CFR 1.47(b) be granted and that the Commissioner accept filing of this application by Company, the party to which the invention disclosed and claimed in the application rightfully belongs, on behalf of and as agent for the inventors.

The \$130 Petition Fee as required by 37 CFR §1.17(j) is submitted herewith. Please charge any underpayment or credit any overpayment of fee to deposit account number 20-0782. [As to fees, see also transmittal of materials in response to Notice to File Missing Parts of Non-Provisional Application.]

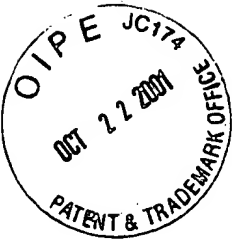
Respectfully submitted,



Eamon J. Wall, Attorney
Reg. No. 39,414
(908) 530-9404

Dated: 10/22/01

MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Fax: 732-530-9808



IN THE UNITED STATES PATENT OFFICE

PATENT APPLICATION

Applicant(s): Jeremy S. Edmonds et al.
Title of application: METHOD AND APPARATUS FOR PERFORMING SUB-
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Serial No.: 09/805,492
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10/22/01 with the United States Postal Service as first class
mail, with sufficient postage, in an envelope addressed to the Assistant Commissioner of Patents,
Washington, D.C. 20231.

Samuel Pratt
Signature

10/22/01
Date of signature

DECLARATION OF EAMON J. WALL IN SUPPORT OF
PETITION FOR FILING OF PATENT APPLICATION
WHEN ALL INVENTORS REFUSE TO EXECUTE PAPERS OR CANNOT BE REACHED
UNDER 37 C.F.R. §1.47(b)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

1. This Declaration is submitted in support of Petition for Filing of Patent Application When All Inventors Refuse to Execute Papers Or Cannot Be Reached Under 37 C.F.R. §1.47(b).

2. This application was filed on March 13, 2001 by Dinh & Associates.

3. Responsibility for prosecution of this application has been assigned to Customer #26,291, formerly Thomason, Moser & Patterson, LLP, now Moser, Patterson & Sheridan LLP (hereinafter "MPS"). I am a partner of MPS. Dinh & Associates' application file ("the file") was received by MPS on August 6, 2001. An

of the subject application for patent on behalf of and as agent for all the inventors-applicants and such filing by Company is necessary to preserve the rights of the parties and to prevent irreparable interest.

I declare under penalty of perjury that the all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Dated: 10/24/01

EJ Wall
Eamon J. Wall

Associate Power of Attorney/Change of Correspondence Address was executed by Dinh & Associates in favor of MPS on August 15, 2001. Such Associate Power of Attorney/Change of Correspondence Address has been forwarded to the PTO for filing. A copy is attached for convenience of reference.

4. As to events that transpired prior to transfer of the file to this firm, I have no personal knowledge.

5. After the file was reviewed, on August 8, 2001 I personally spoke with Evadne Pickett-Walker, Legal Administrative Assistant of DIVA Systems Corporation ("the Company"), and requested advice re the status of execution of Declarations and Assignments (the "formal papers"). Ms. Pickett-Walker advised that neither of the inventors-applicants had executed the formal papers. I personally directed Ms. Pickett-Walker with respect to her continued efforts to obtain execution of the formal papers by the inventors-applicants. Ms. Pickett-Walker's efforts to obtain the signatures of the inventors-applicants on the formal papers are outlined in her Declaration submitted herewith. Due to a corporate restructuring at the Company in which the number of employees serving various business units was reduced, and considering the total lack of cooperation exhibited thus far by the inventors, I strongly believe that the non-signing inventors will not execute and return the application.

6. The last known addresses of the non-signing inventors-applicants are:

Jeremy S. Edmonds
1025 Hudson Street
Redwood City, CA 94061

John P. Comito
907 Pleasant Hill Road
Redwood City, CA 94061

7. The invention of this application was made by inventors-applicants Edmonds and Comito while employees of DIVA Systems Corporation ("the Assignee"). In Agreements with the Company, which Agreements I have personally examined, inventors-applicants have agreed that inventions that (i) are developed using equipment, supplies, facilities or trade secrets of the Company, (ii) result from work performed by [inventor-applicant] for the Company, or (iii) relate to the Company's business or current or anticipated research and development ..., will be the sole and exclusive property of the Company and are ... irrevocably assigned by [inventor-applicant] to the Company. By virtue of such Agreements, the invention of this application is the property of the Company on whose behalf Ms. Pickett-Walker has attempted to obtain execution of the formal papers.

8. Upon information and belief, Company has sufficient proprietary interest in the matter to justify the Company's filing

IN THE UNITED STATES PATENT OFFICE

PATENT APPLICATION

Applicant(s):

Jeremy S. Edmonds et al.

Title of application:

METHOD AND APPARATUS FOR PERFORMING SUB-
PICTURE LEVEL SPLICING BASED ON INTERRUPTS

Serial No.:

09/805,492

Filed:

March 13, 2001

Group Art Unit:

2173

Examiner: not assigned

Attorney Docket No.:

DIVA/246DIV3

CERTIFICATE OF MAILING under 37 C.F.R. § 1.8(a).

I hereby certify that this correspondence is being deposited on
10/22/01 with the United States Postal Service as first class mail,
with sufficient postage, in an envelope addressed to the Assistant Commissioner of Patents, Washington,
D.C. 20231.

Kevin E. Crater
Signature

10/22/01
Date of signature

DECLARATION OF EVADNE PICKETT-WALKER IN SUPPORT OF
PETITION FOR FILING OF PATENT APPLICATION
WHEN ALL INVENTORS REFUSE TO EXECUTE OR CANNOT BE REACHED
PAPERS UNDER 37 C.F.R. §1.47(b)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

1. This Declaration is submitted in support of Petition for Filing of Patent Application When All Inventors Refuse to Execute Papers Or Cannot Be Reached Under 37 C.F.R. 1.47(b).

2. The attached Declaration of Eamon J. Wall, Attorney, establishes his efforts to obtain the signatures of joint inventors Donald F. Gordon, Edward a. Ludvig and John P. Comito on Combined Declarations and Power of Attorney and Assignments for this patent application.

3. I a Legal Administrative Assistant employed by DIVA Systems Corporation ("Company").

4. Pursuant to Mr. Wall's instructions, on August 14, 2001, I forwarded copies of the application with annexed Combined Declaration and Power of Attorney and Assignment, by certified mail, return receipt requested, to non-signing inventors, Messrs. Edmonds and Comito at their last known addresses set forth in paragraph 5 below.

5. The last known addresses of the non-signing inventors are:

Jeremy S. Edmonds
1025 Hudson Street
Redwood City, CA 94061

John P. Comito
907 Pleasant Hill Road
Redwood City, CA 94061

6. Although the application and Assignment were delivered to Mr. Edmonds on August 25, 2001 (a copy of the return receipt is attached), Mr. Edmonds did not execute and return the application and Assignment. Due to a corporate restructuring at the Company in which the number of employees serving various business units was reduced, and considering the total lack of cooperation exhibited thus far by Mr. Edmonds, I strongly believe that Mr. Edmonds will not execute and return the application.

7. Although the application and Assignment were delivered to Mr. Comito on August 17, 2001 (a copy of the return receipt is attached), and receipt of the documents was confirmed in a subsequent telephone conversation with Mrs. Comito. On October 15, 2001, I again left a message for Mr. Comito requesting that he sign and return the application and Assignment. Mr. Comito has neither returned my calls nor returned the executed application and Assignment. Due to a corporate restructuring at the Company in which the number of employees serving various business units was reduced, and considering the total lack of cooperation exhibited thus far by Mr. Comito, I strongly believe that Mr. Comito will not execute and return the application and Assignment.

8. Upon information and belief, the Company has sufficient proprietary interest in the matter to justify the Company's filing of the subject application for patent on behalf of and as agent for all the inventors-applicants and such filing by Company is necessary to preserve the rights of the parties and to prevent irreparable interest.

I declare under penalty of perjury that the all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Dated: 10/16/01


Evadne Pickett-Walker

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Donald F. Gordon
465 Gabilan St. #10
Los Altos, CA 94022



COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) B. Date of Delivery
8/15/01
- C. Signature
X *Laure Breton* Agent Addressee
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

7000 0520 0022 1522 5672

PS Form 3811, July 1999

Domestic Return Receipt

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SENDER: COMPLETE THIS SECTION

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

John Comito
907 Pleasant Hill Rd
Redwood City, CA 94061

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) B. Date of Delivery
8-17
- C. Signature
X *Plaine Comito* Agent Addressee
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

7000 0520 0022 1522 5634

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jeremy S. Edmonds
1025 Hudson St.
Redwood City, CA 94061

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) B. Date of Delivery
08/28/01
- C. Signature
X *[Signature]* Agent Addressee
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

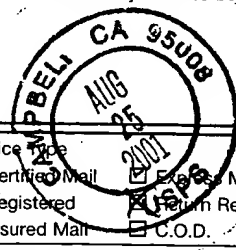
2. Article Number (Copy from service label)

7000 0520 0022 1522 5665

PS Form 3811, July 1999

Domestic Return Receipt

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PATENT APPLICATION

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Attorney Docket No.: DIVA/246DIV3

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D.C. 20231.

Laure E. Crute
Signature

10/22/01
Date of signature

DECLARATION OF STEPHANIE A. STORMS
PETITION FOR FILING OF PATENT APPLICATION
WHEN ALL INVENTORS REFUSE TO EXECUTE
PAPERS OR CANNOT BE REACHED UNDER 37 C.F.R. §1.47(b)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Stephanie A. Storms declares:

1. I am Senior Vice President/General Counsel of DIVA Systems Corp., 800 Saginaw Drive, Redwood City, California 94063 (hereinafter "the Company").

2. The invention of this application was made by inventors-applicants Edmonds and Comito while employees of the Company. Due to a corporate restructuring at DIVA Systems in which the number of employees serving various business units was reduced, and considering the total lack of cooperation exhibited thus far by the inventors-applicants Edmonds and Comito, I strongly believe that they will not execute and return the application.

3. In Agreements with the Company, which Agreements I have personally examined, inventors-applicants have agreed that inventions that (i) are developed using equipment, supplies, facilities or trade secrets of the Company, (ii) result from work performed by [inventor-applicant] for the Company, or (iii) relate to the Company's business

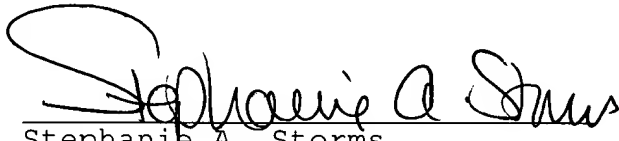
or current or anticipated research and development ..., will be the sole and exclusive property of the Company and are ... irrevocably assigned by [inventor-applicant] to the Company. By virtue of such Agreements, the invention of this application is the property of the Company.

4. I am authorized by Company to sign this application as agent for Company and on behalf of and as agent for all the inventors-applicants.

I declare under penalty of perjury that the all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Dated:

Oct. 16, 2001


Stephanie A. Storms